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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/514,250	02/28/2000	Ho Young Choi	YHK-039	9403

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EXAMINER

CHANG, AUDREY Y

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/514,250	2/28/00	Choi et al.	

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Please find below a communication from the SUPERVISORY EXAMINER in charge of this application.

Commissioner of Patents.

During a telephone message, Laura Lee, requested that the action mailed January 29, 2003 be reissued to include claims 3, 7, 10 and 14 withheld as non-elected. In the letter mailed 9/13/2002, the SPE noted that claims 1-14 were generic to groupings as identified in the Restriction Requirement mailed 2/9/01. In response, a new Restriction Requirement was formulated and mailed 9/13/2002 with new groupings indicating that no claims were generic to the new groups. In response to the requirement, the Applicant stated that claims 1-14 were generic to the new groups as identified by the SPE. This is incorrect. The relationship of claims being determined generic were in relation to the first groupings as set forth in the Restriction Requirement mailed 2/9/01, not the new Restriction Requirement.

It was inappropriate for the Examiner to withdraw claims 3, 7, 10 and 14 without at least an explanation in the action to her reasoning. Nonetheless, a review of these claims indicates that they are not readable on the elected Species II, Figure 6. Specifically, the plurality of recesses with a concentric circle shape having a rotational symmetry on a plane surface is not supported by the elected Species. As disclosed in the elected embodiment of Figure 3, the diffractive optical element is formed on an aspheric surface which by definition is not planar. As such, all of the claims readable on Figure 6 have been examined. A new action is therefore not appropriate.


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